IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1157 OF 2007

Shri.Yeshwant Shivaji Wanmane ...Petitioners

Versus

Malu Pandurang Burange and anr ....Respondents

Mr.Shah for the petitioners.

CORAM: S.C.DHARMADHIKARI, J.

5th December, 2007.

P.C. :

1. Heard Mr.Shah appearing for the petitioner. None appears for the respondents though served. In my view, a hyper technical approach has been taken by the Trial court while disallowing the application of the present petitioner to condone the delay in filing the Written Statement. He has sufficiently indicated in the application that his parents are old and aged and suffering from several ailments. Further, the documents concerning the suit controversy are of the

year 1984. In such circumstances, the delay should have been condoned. The Learned Judge insists that the documents be placed on record to support the contents of the application. However, which documents are being referred to therein is not clear to me. Therefore, the delay deserves to be condoned. More so, when the costs have been deposited in this court but none appears for the respondents. Petition is therefore allowed. The impugned order is quashed and set aside. If within a period of ten days, the Written Statement is filed the same be taken on record. Cost to be transferred to the credit of the suit in the Trial Court and the Respondents be permitted to withdraw the same. The suit to thereafter proceed on merits and in accordance with law.

sd/-

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